Supreme Court, U.S.
FILED

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No. 02-

IN THE

Supreme Court of the United States

AMBASSADOR LEO WANTA, SOMALIA AMBASSADOR TO CANADA AND SWITZERLAND, ddp#-04362 & 12535, aka LEE E. WANTA, aka LEO E. WANTA,

Petitioner,

v.

SECRETARY RICHARD G. CHANDLER, WISCONSIN DEPARTMENT OF REVENUE; *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The State of Wisconsin, Dane County Circuit Court; the United States District Court for the Western District of Wisconsin and the United States Court of Appeals for the Seventh Circuit have effectively circumvented international relations policy directives of the United States Department of State by inappropriately asserting and/or sanctioning "in personam" jurisdiction over Petitioner in contravention of Article 29 and Article 40 of the Vienna Convention on Diplomatic Relations, 23 U.S.T. 3227 and 22 United States Code Section 254(d) which Treaty and United States Code reference confer inviolability and immunity from jurisdiction on the Petitioner "in the first instance".

PARTIES TO THE PROCEEDING

The following listed parties are additional party Respondents:

JAMES E. DOYLE, ATTORNEY GENERAL OF THE STATE OF WISCONSIN

JOHN DOUGLAS HAAG, FORMER ASSISTANT ATTORNEY GENERAL OF THE STATE OF WISCONSIN

GRANT C. JOHNSON, UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF WISCONSIN

JACK C. VOIGHT, WISCONSIN STATE TREASURER

JUDITH COLEMAN, CLERK OF THE DANE COUNTY CIRCUIT COURT, STATE OF WISCONSIN

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OPINIONS AND JUDGMENT BELOW

The Order of the Court of Appeals (Pet. App. 1a) is not reported. The Judgment of the District Court (Pet. App. 2a) is not reported.

STATEMENT OF JURISDICTION

The final Order of the Court of Appeals was issued on November 25, 2002. This Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

PRIMARY STATUTE AND TREATY INVOLVED

22 U.S.C. §§ 254, *et seq.* and the 1961 Vienna Convention on Diplomatic Relations, 23 U.S.T. 3227 provide in part as follows:

a. 22 U.S.C. § 254(d) provides:

> Any action or proceeding brought against an individual who is entitled to immunity with respect to such action or proceeding under the Vienna Convention on Diplomatic Relations, under section 254(b) or 254(c) of this Title, or under any other laws extending diplomatic privileges and immunities, shall be dismissed. Such immunity may be established upon motion or suggestion by or on behalf of the individual, or as otherwise permitted by applicable rules of procedure.

b. Article 29 of the Vienna Convention on Diplomatic Relations provides:

The person of a diplomatic agent shall be inviolable. He shall not be liable to any form of arrest or detention.

The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom or dignity.

c. Article 40 of the Vienna Convention on Diplomatic Relations provides in part:

If a diplomatic agent passes through or is in the territory of a third State, which has granted him a passport visa if such visa is necessary, while proceeding to take up or return to his post, or when returning to his own country, the third state shall accord him inviolability and such other immunities as may be required to ensure his transit or return.

There are other references to regulations and statutes in this petition. The ones mentioned above are the primary references for consideration in evaluating the merits of this petition.

HISTORICAL BACKGROUND STATEMENT OF THE CASE

22 U.S.C. § 254(d) in part states: "Such immunity may be established upon motion **or** suggestion by or on behalf of the individual, **or** as otherwise permitted by applicable rules of procedure". The "or" portions of the United States Code section cited are highlighted to bring particular attention to language that provides for alternatives rather than mandatory requirements. The "Historical Background Statement of the Case" clearly demonstrates that Petitioner was not lax in making a demonstration in compliance with 22 U.S.C. § 254(d) both by means of suggestion (on multiple instances) and motion.

The cited portion of Article 40 of the Vienna Convention on Diplomatic Relations defines conditions of immunity for Diplomatic persons in transit through a third State that is neither the home State nor the State where the Diplomatic position is nominated. The "Historical Background Statement of the Case" clearly demonstrates that Petitioner was not lax in making a demonstration in compliance with the cited portions of Article 40.

The United States Department of State issues policy and procedure directives to law enforcement administrators to be used in dealing with Diplomatic Missions in possession of Diplomatic Passports. Clearly the actions and inactions of the judicial system in the State of Wisconsin, the United States District Court for the Western District of Wisconsin and the United States Court of Appeals for the Seventh Circuit have made findings and rulings that negate both the policy statements issued by the United States Department of State

and the true intent and clear language interpretation of the referenced United States Code and International Treaty references.

In April 1993, while a domiciled resident of Toronto, Ontario, Canada, Petitioner received Somalia Government communications from Haji Mohamed Hashi Haile, the President of Somalia, appointing Petitioner as Ambassador from Somalia to Canada. On or about April 29, 1993, the Somalia Ambassador to Great Britain, A.M. Musse sent a letter to the Foreign Ministry of Canada to inform the Government of Canada that Petitioner would become the official representative of Somalia Affairs in Canada starting from April 1993.

In June 1993 Petitioner departed from Toronto, Ontario, Canada to Europe. Prior to leaving Toronto Petitioner retained services of a Canadian Barrister to assist in establishing Canadian Somalia diplomatic residence and Canadian Somalia diplomatic offices. Petitioner's airplane ticket for this trip was a round trip ticket providing a return flight to Canada upon completion of European business. In June 1993 Petitioner met with Haji Mohamed Hashi Haile, the President of Somalia, in Paris France when they formalized the investiture of Petitioner as Ambassador to Canada from Somalia; obtained official Somalia Government "stamped and sealed" documentation for the investiture of Petitioner and finalized documentation with the President of Somalia that Petitioner became authorized representative, for and on behalf of the Somalia Democratic Republic and the Somalia Central Bank at the UBS Bank in Switzerland.

Upon completion of European business Petitioner was to immediately return to Canada and present officially

stamped, sealed and approved Somalia Government documents to appropriate Canadian Government officials to enable Petitioner to "take up his Diplomatic post".

Upon leaving France Petitioner entered Switzerland. When entering Switzerland Petitioner presented Petitioner's Somalia Diplomatic Passports No: 04362 and 12535 for purpose of identification to Switzerland immigration/customs officials.

On or about July 7, 1993 Petitioner was taken into custody by Switzerland law enforcement officials and verbally advised that he was being held by Switzerland authorities on the verbal request of the State of Wisconsin, United States of America. Petitioner continually and throughout the time of Swiss confinement requested Swiss authorities to confirm under what authority Petitioner was being held. Swiss authorities continually advised Petitioner that the State of Wisconsin (USA) had advised verbally that official paperwork for arrest and extradition was forthcoming.

On or about October 8, 1993 Petitioner was advised by Swiss authorities that Petitioner was being held on United States Government charges arising out of a case filed in the United States District Court in the Western District of Wisconsin under Case No: 93-0033M-X-01. Although verbally advised of charges Petitioner was never brought before Swiss judicial authorities and presented with requests for extradition or afforded any rights of a foreign guest held in a third State as required by International law.

On or about November 17, 1993 Petitioner was removed from the Swiss prison and advised that he was being extradited to the United States. The action to transport

Petitioner was conducted by Swiss authorities without legal due process. The only response given Petitioner, when he inquired as to where he was being sent and under what authority, was a Swiss authority response "that Petitioner was being sent back to America to face failure to pay tax assessment charges filed by the State of Wisconsin, United States of America". The Swiss advised Petitioner than when they were first advised to hold Petitioner they were told it was for a "multi billion dollar" tax fraud. When the Swiss decided to remove Petitioner from Switzerland they had learned the billion-dollar criminal tax case had become a few thousand-dollar criminal tax case.

Petitioner was transported on a Swiss Air carrier from Switzerland to the United States on November 17, 1993. When completing United States of America Immigration and Customs formalities, Petitioner presented the standard Customs Declaration form. On the Customs Declaration form Petitioner represented himself as a United States of America citizen with residence in Toronto, Ontario, Canada and specifically noted the word "Diplomat". After clearing United States immigration/customs formalities Petitioner was arrested by special agents of the Federal Bureau of Investigation ("FBI"). Petitioner advised the arresting FBI agents when entering the United States of America that he was the Somalia Ambassador to Canada and that he was carrying "official" documents in an investiture/diplomatic capacity and in a Diplomatic Pouch. The FBI agents seized the Diplomatic Passports, (used for official identification purposes for entry into the United States), from the possession of Petitioner (the subject Diplomatic Passports having been given back to Petitioner by United States immigration officials when authority to enter was granted) at the time of Petitioner's arrest.

In the presence of Petitioner, in a room within the New York arriving airport, Petitioner observed FBI agents and others whose identity is unknown to Petitioner, reviewing official Diplomatic documents and the contents of Petitioner's Diplomatic (briefcase) Pouch. The Diplomatic Pouch was clearly marked Diplomatic Pouch. Petitioner observed parties reviewing contents of Petitioner's Diplomatic Pouch and Diplomatic Passports and examining the Somali Government documents under seal certifying Petitioner's official investiture by Somalia President Haji Mohammed Haile Hashi.

Petitioner's Somali Diplomatic Passports contained a United States Government Consulate issued "Identification Card" issued pursuant to 22 C.F.R. 53.2(g) identifying Petitioner as a United States Citizen traveling under foreign issued Diplomatic Passports. This Identification Card was placed in the Diplomatic Passports and signed in the name of "Ambassador Leo E. Wanta". The combination of the Diplomatic Passports and the Identification Card legally facilitated the entrance of Petitioner into the United States. This entrance "Identification Card" was issued by the United States Consulate in Switzerland. Petitioner is a United States citizen that requested admittance into the United States **not** based on a United States passport but based on Diplomatic passports of a foreign nation and a duly registered "Foreign Agent".

Transcript of proceedings held on November 17, 1993 before the United States District Court in the Eastern District of New York in the case of *United States of America v. Leo Emil Wanta* under case number 93 M 2072 clearly reflect that the Somalia Diplomatic Passports and Diplomatic Pouch items taken from Petitioner at or immediately after Petitioner

cleared immigration formalities are in the possession of some agency, branch, court and/or other entity under United States jurisdiction.

Following dismissal of 93 M 2072 (referenced immediately above) Petitioner is advised that he will not be released and is being held on the verbal request of law enforcement officials from the State of Wisconsin (USA). Between November 17, 1993 and the middle of December 1993 Petitioner is held by local police authorities in the State of New York (USA) without receiving any documents and/ or served with any arrest warrants concerning any pending charges by the State of Wisconsin (USA). Petitioner continually claimed Diplomatic Immunity to New York detention facility personnel and asserted there was no jurisdiction to hold him. Petitioner had no paperwork, documents or personal identification (since all was seized at the time of his arrest). The seizure of documents and other items at the time of Petitioners arrest left Petitioner without even minimal evidence of documentation to prove even his name. New York detention facility personnel advised Petitioner that he would have to wait until transfer to the State of Wisconsin (USA) to raise his objections to jurisdiction based on Diplomatic Immunity.

On or about December 13, 1993 Petitioner is taken from the jail holding facility in the State of New York (USA) and turned over to county law enforcement officers from the State of Wisconsin (USA) and immediately air transported from the State of New York (USA) to the State of Wisconsin (USA). Between November 17, 1993 and December 13, 1993 Petitioner is not brought before any Court, presented with any warrants for extradition to the State of Wisconsin or allowed consultation with a private attorney.

Petitioner's initial appearance before a judicial officer in the State of Wisconsin occurred on December 14, 1993. The transcripts of this proceeding reflect that the prosecuting attorney representing the State of Wisconsin is aware that Petitioner claimed legal residence in Toronto, Canada and is clearly aware of the "suggestion" of Diplomatic Immunity. The prosecutor questions verification of diplomatic status in the referenced initial appearance transcript. The transcripts of this initial appearance hearing further reflect that Petitioner makes reference to the Diplomatic Passports and other official records taken into possession by the FBI as part of the seizure of Petitioner's Diplomatic (briefcase) Pouch at the time of Petitioner's arrest in New York on November 17, 1993.

Petitioner' assertions and claims of Diplomatic Immunity was the represented basis made by the State of Wisconsin for the State of Wisconsin questioning the "competency" of Petitioner to assist in his legal defense. The reference to "competency" first came at the initial appearance of the Petitioner on December 14, 1993. For the entirety of the year 1994 and part of the year 1995 there are several court hearings on the issue of competency. Petitioner continually asserts he is competent and the evaluating physicians from the institutions where he was confined concluded that Petitioner was totally competent. The examining physicians not only determined that Petitioner was competent they further determined that Petitioner was not suffering from a mental condition of "delusion". The claim by the Dane County Circuit Court and the State of Wisconsin that Petitioner's continual, repetitious, assertive and ongoing claim regarding Petitioner's Ambassadorship Diplomatic status and his assertion of the lack of State of Wisconsin jurisdiction was evidence in the opinion of the court and the State of Wisconsin that Petitioner suffered from "Delusion".

The transcript of a hearing held in the State of Wisconsin Dane County Circuit Court on February 3, 1995 contains an admission by Mr. Haag (State of Wisconsin prosecutor) and Mr. Chavez (an attorney purportedly having authority to represent the Petitioner) of the existence of the Diplomatic (briefcase) Pouch and the originals of the Somalia Diplomatic Passports and other relevant "Official Diplomatic Documents" and that the same were at least reviewed and seen by Mr. Chavez and Mr. Haag as part of evidence documents being held by the State of Wisconsin (USA).

At virtually every court hearing, at a trial of Petitioner and at all post-trial proceedings Petitioner continually raised the issue of his continuing Diplomatic Immunity and as a result the Petitioner continually asserted the lack of any competent jurisdiction by the State of Wisconsin (USA) over the Petitioner. During one appearance before the presiding county court judge the judge commented in summary "that the Petitioner could not be an Ambassador from Somalia because Petitioner was not black".

On January 15, 1998 Petitioner made a court filing setting forth the issue of Diplomatic Immunity and the Diplomatic status of Petitioner with the Country of Somalia. The documents attached to this filing were only copies since the originals had not been seen by the Petitioner since he was taken into custody in New York in November of 1993. The trial court denied the prayer for relief requested. The county court did not find that Petitioner was not an Ambassador to Canada from Somalia. In making the ruling the county court judge makes certain references, in summary, that the Diplomatic passports are only copies and appear to be generic since no name can be read on the copies. The county court further references certain other official

documents such as official papers of the Somalia Government. The county court judge questions the authenticity and validity of the official Somalia Government documents since these documents are also copies. The county court should have been knowledgeable of the location of the originals because they had been acknowledged as being viewed by the Prosecutor and the purported attorney for the Petitioner during the February 3, 1995 hearing before the same county court judge.

Reading the referenced transcripts demonstrates that the county court presiding judge, the prosecutor and the State of Wisconsin jointly and severally were fully aware that the originals of the official documents, which copies the county court stated were illegible or unauthenticated photocopies, (including the original Diplomatic Passports) were in the possession of either the county court clerk and/or some other arm of the State of Wisconsin (USA). The State of Wisconsin was fully apprised of the hearing held in the United States District Court in New York in November of 1993 and that the original Diplomatic passports were in the possession of the presiding United States District Court Judge.

The Diplomatic Passports of Petitioner contained the "Identification Card" signed in the name of Ambassador Leo E. Wanta for travel to the United States by Petitioner, and were issued by the United States Consulate in Switzerland. The originals contained the "Identification Card" and the stamp of the date of official entry into the United States by Petitioner. The permission to enter without confiscating the Diplomatic Passports is an acknowledgment by Immigration and Customs clearing authorities as to the validity of the "documents" presented in granting permission to a United States citizen offering foreign Diplomatic Passports as entry documents. The evidence of the

authenticity and validity of the Diplomatic Passports was contained within the original documents. The county court and representatives of the State of Wisconsin knew that originals of pertinent Diplomatic documents were in the care, custody and control of the State of Wisconsin and not in the possession of Petitioner.

Neither the Somalia Democratic Republic nor Petitioner has waived the right to assert and expect "Diplomatic Immunity" for Petitioner (either in this jurisdiction or any other jurisdiction).

The issue of Petitioner's mental competence mentioned herein not only occurred prior to the county court trial of Petitioner but also continued as an ongoing attack on the claimed lack of competency of the Petitioner by the State of Wisconsin after the trial. Petitioner continually denied that Petitioner was incompetent and medical examiners concurred with the personal opinion of Petitioner. Post-trial accusations concerning questions of Petitioner's competency repeatedly focused on Petitioner's claim of Diplomatic Immunity and multiple and repetitive assertions that the Petitioner adamantly objected to the county court improperly and illegally claiming personal jurisdiction over the Petitioner. One jurist in the United States District Court made mention that the Diplomatic relationship with the Country of Somalia was "Bizarre".

Since November of 1993 Ambassador Wanta has been held as a political prisoner by the State of Wisconsin contrary to international law, conventions and treaties to which the United States is a party. Petitioner has not only been held a political prisoner he has also been subject to State of Wisconsin judicial court orders directing that Petitioner be

administered mind altering drugs to correct conditions of **non-medically** documented evidence of delusion. The opinion of the court regarding the alleged delusional mental state of Petitioner is **not** substantiated by medical evaluation. Dr. Connie Lee the primary physician responsible for evaluating the mental condition of Petitioner, for the State of Wisconsin, specifically found that Petitioner **is not delusional** and Dr. Lee rejected the court order to drug the Petitioner and refused to prescribe the administering and/or dispensing of drugs to Petitioner. In addition Dr. Lee was of the opinion that administering such drugs could cause death or permanent physical damage to Petitioner.

The lack of "jurisdiction" over the person Petitioner began at the time of Petitioners entry into the United States in November of 1993. Confirmation of a "suggestion" of Diplomatic Immunity occurred when the United States District Court Judge for the Southern District of New York acknowledges possession of Petitioners Diplomatic Passports and possession of Diplomatic papers. The above set forth "Historical" aspects of the case reveal several instances where there is mention that Petitioner claims Diplomatic Immunity and there is acknowledgment that official Diplomatic documents are in the custody and control of agents and representatives of the State of Wisconsin. The State of Wisconsin County Court judge that ruled against Diplomatic Immunity did so based on statements concerning the credibility of copies. This County Court ruling was made by the same Judge that presided over a hearing where there was specific mention that the original Diplomatic Passports and other Diplomatic documents were seen by the prosecutor and other concerned parties. The hearing findings placed the Petitioner in a position of personal jeopardy in contravention of United States Department of State policies on dealing with Diplomatic agents.

The actions filed in the United States District Court for the Western District of Wisconsin and the United States Court of Appeals for the Seventh Circuit set forth various causes of action. One of the causes of action addressed Diplomatic Immunity and in form and substance the Diplomatic Immunity cause of action was virtually identical with the background and facts set out in this petition. The primary distinction is that the actions filed in the two Federal Courts had transcripts and other documentation attached as exhibits that corroborates the facts set forth herein.

The crux of the decision by the United States District Court for the Western District of Wisconsin, which decision is in essence affirmed summarily by the Seventh Circuit Court of Appeals, was that all causes of action raised by Petitioner, including Diplomatic Immunity had been decided by the jury conviction of Petitioner in the State of Wisconsin County Court. The decisions found that Petitioner's only remedy was a 28 U.S.C. § 2254 post conviction filing and since the statute of limitations had expired Petitioner had no avenue available in the Federal Courts for his claims to be heard and adjudicated. A finding that Diplomatic Immunity had been ruled upon by a jury has no basis either in substance or fact since not only was this not an issue ever presented to a jury this most importantly is not an issue that would ever be presented to a jury. It is incorrect to conclude that (with the known factual background) the State of Wisconsin judicial system had jurisdiction over the person in the "first instance". Lack of personal jurisdiction in accordance with the cited statutes, regulations, Treaty and Department of State policy statements brought forth inviolability over the person in the "first instance". With no power over the person there is no jurisdiction over the person. The trial of Petitioner in the State of Wisconsin had only one of the fundamental

requirements of jurisdiction and that is "subject matter jurisdiction", with total lack of jurisdiction over the person. Clearly the intent of the statues, regulations and Treaty cited herein, taken in conjunction with Department of State policy, negate the right, power and authority of the State of Wisconsin to place the Petitioner in an environment where the Petitioner needs to pursue protection of reversal of wrong through post conviction relief.

REASONS FOR GRANTING THE PETITION

The Court should grant the petition to resolve a square, acknowledged, and unquestionable departure and disregard of practices and procedures issued by the United States Department of State. These guidelines are to be followed by law enforcement agencies when confronted with a person asserting Diplomatic Immunity. Diplomatic Passports and other credible Diplomatic documentation substantiate the claim of Diplomatic Immunity. The originals of all Diplomatic documents are being held by the State of Wisconsin in violation of both United States law and International law.

I. THE COURT SHOULD RESOLVE THE APPARENT CONFLICT BETWEEN THE REFERENCED WISCONSIN JUDICIAL JURISDICTIONS, THE SEVENTH CIRCUIT COURT OF APPEALS AND THE UNITED STATES DEPARTMENT OF STATE.

The immunity of the person of the diplomat, i.e., his or her personal inviolability, is considered the core of Diplomatic immunity. Personal inviolability is of all the privileges and immunities of missions and diplomats the oldest established and the most universally recognized.

To state that a representative of a state or international organization shall be inviolable is to state that he shall not be subject to any arrest and/or detention.

In 1978, Congress enacted the Diplomatic Immunity Act, 22 U.S.C. §§ 254a, *et seq.*, to implement the Vienna Convention on Diplomatic Relations as the sole law on the subject in the United States. The Vienna Convention Article 29, provides full personal diplomatic inviolability stating simply

> [t]he person of a diplomatic agent shall be inviolable. Article 40 of the Vienna Convention makes the terms and conditions of the Treaty applicable to diplomatic agents coming through one State in process of returning to another State. All persons who are inviolable may not be served with process. The service of process is an assertion of jurisdiction and is thus precluded as to persons such as diplomatic agents.

See Aidi v. Yaron, 672 F. Supp. 516, 517 (D.D.C. 1987). "[I]t is axiomatic that if jurisdiction is not available, then service of process is void, making a motion to quash service of process a valid remedy". *Vulcan Iron Works v. Polish Am. Machinery Corp.*, 472 F. Supp. 77, 78 (S.D.N.Y. 1979).

The Supremacy Clause of the United States Constitution provides in part that, "all Treaties made or which shall be made, under the authority of the United States, shall be the Supreme Law of the Land". United States Constitution, Article VI, Clause 2. Title 22 U.S.C. § 254(d) in describing the method of asserting and/or claiming Diplomatic immunity clearly uses the word "or" leaving open the option of either

a "suggestion", "or" as otherwise permitted. It is accepted that the "suggestion" must be from a credible source. Petitioner submits that the "suggestion" made by the overt actions of the United States Consulate and customs/ immigration authorities, the substance of which "suggestion" has been known to all pertinent parties since Petitioner's arrival in the United States in November of 1993, is sufficient to lead a reasonable person to conclude that the "suggestion" comes from a credible source.

It is assumed that the United States Consulate in Switzerland issuing the "Identification Card" and/or immigration and customs authorities supervising admittance of Petitioner into the United States (using a foreign issued passport) were and are aware of the following United States Code and Code of Federal Regulation references:

8 U.S.C. § 1185 provides in part:

(b) Citizens

> Except as otherwise provided by the President and subject to such limitations and exceptions as the President may authorize and prescribe, it shall be unlawful for any citizen of the United States to depart from or enter, the United States unless he bears a valid United States passport.

22 C.F.R. Section 53.1 provides in part:

> Under section 215(b) of the Immigration and Nationality Act (8 U.S.C. § 1185(b)), it is unlawful except as otherwise provided for any citizen of

> the United States to depart from or enter, or attempt to depart from or enter, the United States without a valid passport.

Obviously the issuance of the "Identification Card" substantiates a known exception to the cited references and furthermore allowing entrance into the United States by immigration officials exemplifies an exception and sufficient "suggestion" of validity to warrant confirmation of Diplomatic Immunity upon the Petitioner.

The State of Wisconsin is in possession of Petitioner's Diplomatic Passports and Diplomatic Pouch in contravention of the Vienna Convention and the holding of said items and failing to recognize the Diplomatic Immunity of Petitioner disregards policy statements issued by the United States Department of State. The meaning given treaty provisions by the departments of Government charged with their negotiation and enforcement is given great weight. *Kolovrat v. Oregon*, 366 U.S. 187 at 194 (1961). The directives of the Department of State reflect that Petitioner was entitled to Diplomatic Immunity and not subject to arrest and/or prosecution.

The State of Wisconsin has put restrictions on Petitioner that he may not make reference in any manner to his Ambassadorship unless the validity of his Ambassadorship is confirmed to the acceptance of the State of Wisconsin. Petitioner has continually argued that the State of Wisconsin has no authority to question the validity of the foreign issued passports. The issuance by the United States Consulate of the "Identification Card" within the "four corners" of the Diplomatic Passports and acceptance of the same by immigration authorities for entrance into the United States unquestionably demonstrates the validity of the documents.

The State of Wisconsin has no jurisdiction in the matter as the matter is subject to the Supremacy Clause of the United States Constitution, International Treaty and the Vienna Convention. The Federal Constitution, laws and Treaties therefore preempt state and local enactments that conflict with federal authority or purport to regulate in any area reserved exclusively to the Federal Government.

The issues raised by Petitioner are clearly distinguishable with the decisions of this Court in cases such as *Beard v. Greene*, 523 U.S. 371 (1998). In the ***Beard*** case and similar cases the issue concerns a procedural matter of allowing a foreign national defendant to have notice given to and consultation with a legal representative provided by the defendants foreign national State consular offices. These distinguishable cases are not concerned with jurisdiction over a person having Diplomatic Immunity "in the first instance". Jurisdiction is the primary and foremost issue in this case. Petitioner's own "suggestions", motions to the county court and the "suggestions" of others invalidated any jurisdiction claimed over the Petitioner. The third party "suggestions" and other representations at or immediately prior to Petitioners passage through immigration at the Port of Entry in New York clearly confirm that jurisdiction was negated from on or before November 13, 1993. Lack of jurisdiction and unlawful holding of Petitioner continues at the time of filing this petition.

The State of Wisconsin and other judicial jurisdictions do not have the authority and/or Constitutional right to supersede their own judgment in this matter.

Diplomatic Immunity is a privilege extended to a person by Treaty, statute, regulation and code. The inviolability of

the person diplomat and negation of jurisdiction pertains to jurisdiction over the person. Diplomatic Immunity nullifies the power of the court over the person. Petitioner satisfied the conditions for being granted Diplomatic Immunity through the endorsement by the United States Consulate in Switzerland in issuing an Identification Card in Petitioners foreign issued Diplomatic Passport. The Petitioner strengthened his "suggestion" of Diplomatic Immunity when Consulate actions are combined with immigration authorities ratifying the right of passage into the United States by acceptance for admittance of a United States citizen in possession of foreign issued Diplomatic Passport. The Petitioner's "suggestion was further strengthened by confirmation of existence of Diplomatic material including passports and other items by the United States District Court in New York.

II. THE QUESTION PRESENTED IS AN IMPORTANT ONE THAT WARRANTS THIS COURT'S REVIEW.

The decisions below are incorrect. They should not be allowed to stand. This Court not granting this petition would in essence amount to a sanction by this Court conferring upon States an implied power to supersede the true intent of an internationally adopted Treaty and the statements of policy issued by the United States Department of State.

CONCLUSION

For the foregoing reasons, the petition for a Writ of Certiorari should be granted. Petitioner would also suggest and respectfully request that this Court issue such further Orders and findings to immediately and forthwith restore Petitioners internationally protected rights and immunity in accordance with the cited authorities and reference to State Department policy and procedure referenced in this petition.

Respectfully submitted,

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APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT DECIDED NOVEMBER 1, 2002

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

Submitted September 18, 2002
Decided November 1, 2002

Before

Hon. RICHARD A. POSNER, *Circuit Judge*

Hon. JOHN L. COFFEY, *Circuit Judge*

Hon. DIANE P. WOOD, *Circuit Judge*

No. 02-1544

LEO WANTA and
NEW REPUBLIC/USA FINANCIAL GROUP, LTD.,

Petitioners-Appellants,

v.

RICHARD CHANDLER, *et al.*,

Respondents-Appellees.

Appeal from the United States District Court for the
Western District of Wisconsin

Appendix A

No. 01-C-0601-C

Barbara B. Crabb, *Chief Judge*

ORDER

Leo Wanta has filed a notice of appeal from the denial of a petition under 28 U.S.C. § 2254, which we will construe as an application for a certificate of appealability. Before this court is Wanta's motion for "corrective action," arguing that the appeal can proceed without the issuance of a certificate of appealability because the district court erroneously construed his civil lawsuit as a § 2254 petition. We conclude that the district court properly construed the majority of Wanta's claims as falling under § 2254 because they attack the validity of Wanta's conviction. Because we agree with the district court that those claims are untimely, we DENY Wanta's request for a certificate of appealability.

As for Wanta's claim regarding the seizure of various documents and any claims on behalf of New Republic, we summarily AFFIRM the district court's dismissal.

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN DATED AND FILED FEBRUARY 5, 2002

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN

DPP #-04362 & 12535,

01-C-0601-C

AMBASSADOR LEO WANTA, Somalia Ambassador to Canada and Switzerland, aka Lee E. Wanta, aka Leo E. Wanta; and NEW REPUBLIC/USA FINANCIAL GROUP, LTD., GES m.b.h. (Austria),

Petitioners,

v.

SECRETARY RICHARD G. CHANDLER, Wisconsin Department of Revenue; JAMES E. DOYLE, Attorney General State of Wisconsin; GRANT C. JOHNSON, United States Attorney Western District of Wisconsin; JOHN DOUGLAS HAAG, Former Assistant Attorney General State of Wisconsin; JACK C. VOIGHT Wisconsin State Treasurer; JUDITH COLEMAN Clerk of the Dane County Circuit Court, State of Wisconsin; ATTORNEY GENERAL JOHN ASHCROFT Attorney General of the United States of America; and PAUL H. O'NEILL, Secretary of the Treasury, United States of America,

Respondents.

Appendix B

ORDER

This is an action labeled "Petition for Declaratory and/or Injunctive Relief and an Action in the Nature of a Petition for Writ of Mandamus," in which petitioners are seeking to overturn a jury verdict in the Wisconsin state courts finding plaintiff Leo Wanta guilty of two counts of filing false income tax returns and four counts of concealing property upon which levy was authorized. In a rambling, 22-page complaint, petitioners detail a plethora of reasons why they believe the state of Wisconsin acted improperly in charging petitioner Wanta with income tax violations, in convicting him, in attempting to levy upon certain property and in trying to collect taxes arising out of business dealings of Falls Vending and related property. Among other things, petitioners argue that the state refused to recognize Wanta's diplomatic immunity as an ambassador, his close involvement with the United States government in undertaking sensitive intelligence operations directed at persons such as Marc Rich and Osama Bin Laden and the requirements of his job that he live overseas.

In addition to an order overturning petitioner Wanta's conviction, petitioners want to prevent state authorities from collecting sales taxes or other taxes allegedly due from Falls Vending and to have this court initiate investigations into certain documents that were made part of the state court record at trial or for sentencing purposes. Also, it appears from some of the briefing, although not from the complaint, that petitioners want to obtain certain documents that they allege are in the possession of the Dane County clerk of court, respondent Judith Coleman.

Appendix B

Petitioners do not explain what stake, if any, petitioner New Republic/USA Financial Group has in correcting petitioner Wanta's conviction or what claims they might have against respondents United States Attorney Grant C. Johnson, Attorney General John Ashcroft and Treasury Secretary Paul H. O'Neill. (It appears that petitioners believe that these respondents might have access to certain documents and information that would prove petitioners' allegations about Wanta's supposed intelligence gathering activities.) The petition will be dismissed as to these three federal respondents for petitioners' failure to state a claim against them.

Petitioners are represented by counsel, who should know that the only way that a state court conviction can be challenged in a federal court is through a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254 and filed within one year of the date on which the conviction has become final, § 2244(d)(1). This time period may be extended if one of a limited number of exceptions applies. *Id.* Petitioner Leo Wanta was convicted in 1995; his conviction was affirmed by the state court of appeals on February 4, 1999, and his petition for review was denied by the state supreme court on April 27, 1999. He did not file his petition in this case until October 22, 2001, far more than one year after his conviction had become final, even if a period of ninety days is allowed for the filing of a petition for certiorari to the United States Supreme Court. *See Gendron v. United States*, 154 F.3d 672, 674 & n.2 (7th Cir. 1998) (leaving open question whether prisoner who filed for leave to appeal to state supreme court would have time for filing certiorari with the United States Supreme Court included in his "direct

review"). Petitioners do not suggest that any of the exceptions set out in § 2244(d)(1) apply to their challenge so as to give them additional time for filing. This petition is untimely and must be dismissed on that basis.

Although petitioners raise matters not ordinarily raised in petitions for writs of habeas corpus brought pursuant to § 2254, such as their request for an investigation and for injunction of any attempts by the state to collect taxes based on profits earned at Falls Vending, these matters arise directly out of the charges brought against petitioner Wanta and should have been raised in connection with his trial and appeal. It is too late to raise them now. Moreover, this court has no authority to initiate an investigation into a matter that was before the state court or to enjoin the collection of state taxes that a state court has held are owed by petitioner Wanta. 28 U.S.C. § 1341.

As to petitioners' effort to obtain documents from the state courts, petitioners have not suggested any basis on which this court could order the state courts to search for documents or return them to petitioners. Therefore, the petition will be dismissed as to respondent Judith Coleman.

Appendix B

ORDER

IT IS ORDERED that the Petition for Declaratory and/or Injunctive Relief and an action in the Nature of a Petition for Writ of Mandamus filed by petitioners Ambassador Leo Wanta and New Republic/USA Financial Group, Ltd. is construed as a challenge to petitioner Wanta's state court conviction that can be brought only as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and is DENIED as untimely because it was not filed within one year of the date on which petitioner's conviction became final as required under § 2254(d). To the extent that petitioners seek any relief that would not be encompassed in a petition for a writ of habeas corpus, those claims are denied for petitioners' failure to show any basis on which the claims could be granted. Accordingly, the petition is DISMISSED as to respondents Grant C. Johnson, Attorney General John Ashcroft, Paul H. O'Neill and Judith Coleman for petitioners' failure to state any claims against these respondents. The clerk of court is directed to enter judgment for all respondents and close this case. Entered this 31st day of January, 2002.

BY THE COURT:

s/ Barbara B. Crabb
BARBARA B. CRABB
District Judge

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT DENYING THE MOTION FOR RECONSIDERATION DECIDED NOVEMBER 25, 2002

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT
Chicago, Illinois 60604

SUBMITTED NOVEMBER 22, 2002
DECIDED NOVEMBER 25, 2002

BEFORE
HON. RICHARD A. POSNER, CIRCUIT JUDGE
HON. JOHN L. COFFEY, CIRCUIT JUDGE
HON. DIANE P. WOOD, CIRCUIT JUDGE

No. 02-1544

Motion for Reconsideration

LEO WANTA AND NEW REPUBLIC/USA FINANCIAL GROUP, LTD.,

Petitioner-Appellants,

v.

RICHARD G. CHANDLER, ET AL.,

Respondents-Appellees.

Appendix C

ORDER

Leo Wanta and New Republic/USA Financial Group, Ltd., filed a motion for reconsideration of this court's November 1, 2002, order denying their request for a certificate of appealability and summarily affirming the district court judgment on their remaining claims. The motion for reconsideration is DENIED.

No signature and no stamp